

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation
of the Securities Act of Washington by:

ALPHA TELCOM, INC.; AMERICAN
TELECOMMUNICATIONS COMPANY, INC.;
KELLEY W. ABBOTT; WILFRID ALVAREZ;
JACK CHANDLER; DANIEL CURTIN;
THOMAS DURSO; ROY GRADY; HANS
LORENTZEN; FAY L. MOYER; GLEN
OTTMAR; DIRK PETERSON; FREDERICK
WEATHERBEE; their agents and employees,

Respondents.

SDO - 21 - 02

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL ORDER
TO CEASE AND DESIST AS TO ALPHA
TELCOM, INC. AND AMERICAN
TELECOMMUNICATIONS COMPANY, INC.

Case No. 99-07-0220

THE STATE OF WASHINGTON TO:

Alpha Telcom, Inc.
2751 Highland Ave.
Grants Pass, OR 97256

American Telecommunications Company, Inc.
942 S.W. 6th Street #G
Grants Pass, OR 97256

On January 29, 2002, the Securities Administrator of the State of Washington issued Statement of Charges and Notice of Intention to Enter Order to Cease and Desist, Notice of Intent to Suspend or Revoke Securities Salesperson Registration, and Notice of Intent to Impose Fines and Order Affirmative Relief SDO-09-02 hereinafter referred to as the "Statement of Charges."

The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing (hereinafter referred to as "Notice of Opportunity for Hearing") and an Application for Adjudicative Hearing

ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF
LAW AND FINAL ORDER TO CEASE AND DESIST AS TO
ALPHA TELCOM, INC. AND AMERICAN
TELECOMMUNICATIONS COMPANY, INC.

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

(hereinafter referred to as “Application for Hearing”), were personally served on Respondents Alpha Telcom, Inc. and American Telecommunications Company, Inc. on February 8, 2002. The Notice of Opportunity for Hearing advised Respondents that they had twenty days from the date they received the notice to file a written application for an administrative hearing on the Summary Order.

Respondents Alpha Telcom, Inc. and American Telecommunications Company, Inc. each failed to request an administrative hearing within twenty days of its receipt of the Summary Order and Notice of Opportunity for Hearing, either on the Application for Hearing provided or otherwise.

The Securities Administrator therefore adopts as final the findings of fact and conclusions of law as set forth in the Statement of Charges.

The Securities Administrator makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

I. Respondents

1. **ALPHA TELCOM** (“Alpha”) is an Oregon corporation with a last known business address of 2751 Highland Ave., Grants Pass, Oregon.

2. **AMERICAN TELECOMMUNICATIONS COMPANY, INC.** (“ATC”) is a Nevada corporation with a last known business address of 942 S.W. 6th Street #G, Grants Pass, Oregon.

3. **KELLEY W. ABBOTT** (“Abbott”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least one person during the investment offering, as described below in Section II. Abbott’s license to sell insurance was revoked by the Washington state Office of the Insurance Commissioner in September of 1999. Abbott resides in Spokane, Washington.

4. **WILRID ALVAREZ** (“Alvarez”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least one person during the investment offering, as

described below in Section II. Alvarez is a Washington state licensed insurance agent and resides in Port Orchard, Washington.

5. **JACK CHANDLER** (“Chandler”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least ten persons during the investment offering, as described below in Section II. Chandler is a Washington state licensed insurance agent and resides in Edmonds, Washington.

6. **DANIEL CURTIN** (“Curtin”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least three persons during the investment offering, as described below in Section II. Curtin is currently licensed as a securities salesperson in the state of Washington. Curtin is also a Washington state licensed insurance agent and resides in Olympia, Washington.

7. **THOMAS DURSO** (“Durso”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least eleven persons during the investment offering, as described below in Section II. Durso resides in Bellevue, Washington.

8. **ROY GRADY** (“Grady”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least two persons during the investment offering, as described below in Section II. Grady is currently licensed as a securities salesperson in the state of Washington. Grady is also a Washington state licensed insurance agent and resides in Bellingham, Washington.

9. **HANS LORENTZEN** (“Lorentzen”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least four persons during the investment offering, as described below in Section II. Lorentzen is a Washington state licensed insurance agent and resides in Bellingham, Washington.

10. **FAY L. MOYER** (“Moyer”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least eleven persons during the investment offering, as described below in Section II. Moyer is a Washington state licensed insurance agent and resides in Omak, Washington.

11. **GLEN OTTMAR** (“Ottmar”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least thirteen persons during the investment offering, as described below in Section II. Ottmar is a Washington state licensed insurance agent and resides in Bellevue, Washington.

12. **DIRK PETERSON** (“Peterson”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least four persons during the investment offering, as described below in Section II. Peterson is currently licensed as a securities salesperson in the state of Washington. Peterson is also a Washington state licensed insurance agent and resides in Bellevue, Washington.

13. **FREDERICK WEATHERBEE** (“Weatherbee”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least eight persons during the investment offering, as described below in Section II. Weatherbee is a Washington state licensed insurance agent and resides in Spokane, Washington.

II. Nature of the Offering

A. Prior Litigation History

14. Alpha and ATC have been the subject of several actions brought by securities regulators throughout the country, including the Pennsylvania Securities Commission, the North Carolina Securities Division, the Illinois Securities Department, the South Carolina Securities Department, the Wisconsin Department of Financial Institutions, the Rhode Island Department of Business Regulations, the Florida Department of Banking and

1 Finance, the California Department of Corporations, the Ohio Department of Commerce, the Missouri Secretary of
2 State, and the Arkansas Securities Department. None of these actions were disclosed to Washington investors.

3 15. The United States District Court for the District of Oregon, at the request of the United States
4 Securities and Exchange Commission, issued a preliminary injunction on September 6, 2001 against Alpha
5 Telcom, Inc., American Telecommunications Company, Inc., and various other persons restraining those
6 defendants from committing securities fraud in violation of the Securities Act of 1933 and the Securities Exchange
7 Act of 1934. The preliminary injunction also continued an asset freeze contained in the temporary restraining
8 order issued previously by the court on August 27, 2001.

9 **B. Summary of Offering**

10 16. From at least December of 1998 through at least May of 2001, Respondents acting in concert, on
11 behalf of one another, and/or acting through their sales agents, offered and sold public telephones and telephone
12 service agreements to at least 100 Washington residents.

13 17. Abbott, Alvarez, Chandler, Curtin, Durso, Grady, Lorentzen, Moyer, Ottmar, Peterson, and
14 Weatherbee entered into agreements with Alpha and ATC, whereby each agreed to sell public telephones and
15 telephone service agreements on behalf of Alpha and ATC. Alpha and ATC agreed to compensate each agent on a
16 commission basis based on the number of telephones sold by the agent.

17 18. The public telephones and telephone service agreements offered to Washington residents were sold
18 at a cost of \$4,000 to \$5,000 per telephone. Under the terms of the telephone service agreement, Alpha undertook
19 to perform certain duties on behalf of the investor, including but not limited to collecting revenue from the phones,
20 as well as servicing, repairing, and administering the phones. The agreement provides that an investor receives
21 30% of the adjusted gross revenue generated by the phones, or the monthly base amount, whichever is greater.

1 The monthly base amount is \$46.67 per \$4,000 phone purchased, and \$58.34 per \$5,000 phone purchased. These
2 monthly base amounts equate to a 14% annual return.

3 19. In connection with the offer and sale of public telephones and telephone service agreements, some
4 of the investors were provided promotional materials that described the payphone investments as providing higher
5 yields than certificates of deposit. The promotional materials state that "payphones are not as safe as CD's, but are
6 a safe business." Agents touted the typical return on investment as 14% annually.

7 20. At least 100 Washington residents invested a total of at least \$3,922,000 in public telephones and
8 telephone service agreements through Alpha and ATC.

9 21. In connection with the offer and sale of public telephones and telephone service agreements,
10 Respondents failed to provide material information regarding Alpha and ATC during the investment offering,
11 including, but not limited to: (1) information about the use of investor proceeds, such as the costs to purchase
12 public telephones and the amounts paid to Alpha, ATC, agents, and others; (2) the risks of the investment (3) the
13 financial condition and financial statements of Alpha and ATC; and (4) the basis for the representations made to
14 investors of a 14% annual investment return.

15 **III. Registration Status**

16 22. Alpha, ATC, Abbott, Alvarez, Chandler, Curtin, Durso, Grady, Lorentzen, Moyer, Ottmar,
17 Peterson, and Weatherbee are not currently registered to offer or sell its securities in the state of Washington and
18 have not previously been so registered.

19 23. Alpha, ATC, Abbott, Alvarez, Chandler, Durso, Lorentzen, Moyer, Ottmar and Weatherbee are not
20 currently registered as securities salespersons or broker-dealers in the state of Washington. Alvarez was registered
21 in the state of Washington as a securities salesperson from September 1998 to August 2001. Lorentzen was
22

1 registered in the state of Washington as a securities salesperson from February 1994 to December 1998. Ottmar
2 was registered in the state of Washington as a securities salesperson from May 1983 to June 1993.

3 24. Curtin (CRD #1471333) is currently registered as a securities salesperson in the state of Washington
4 with Allstate Financial Services, LLC.

5 25. Grady (CRD #1697841) is currently registered as a securities salesperson in the state of Washington
6 with Allstate Financial Services, LLC.

7 26. Peterson (CRD #4242106) is currently registered as a securities salesperson in the state of
8 Washington with Prime Capital Services, LLC.

9 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

10
11 **CONCLUSIONS OF LAW**

12 **I. Securities**

13 The offer and/or sale of public telephones and telephone service agreements described above constitutes the
14 offer and/or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: an investment contract; or risk
15 capital.

16 **II. Violation of RCW 21.20.010**

17 The offer and/or sale of said securities was made in violation of RCW 21.20.010 because Respondents made
18 untrue statements of material fact and/or omitted to state material facts necessary in order to make the statements
19 made, in light of the circumstances under which they were made, not misleading.

20 **III. Violation of RCW 21.20.140**

21 The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration for such
22 offer and/or sale is on file with the Securities Administrator of the state of Washington.

1 **IV. Violation of RCW 21.20.040**

2 Respondents Alpha, ATC, Abbott, Alvarez, Chandler, Durso, Lorentzen, Moyer, Ottmar and Weatherbee
3 have violated RCW 21.20.040 by offering said securities while not being registered as broker-dealers or securities
4 salespersons in the state of Washington.

5 **FINES AND AFFIRMATIVE RELIEF**

6 On November 5, 2001, the United States District Court for the District of Oregon issued a Final Judgment of
7 Permanent Injunction against American Telecommunications Company, Inc. permanently restraining that defendant
8 from committing securities fraud in violation of the Securities Act of 1933 and the Securities Exchange Act of
9 1934, and ordering that defendant to pay disgorgement. On February 7, 2002, the United States District Court for
10 the District of Oregon issued a Final Judgment of Permanent Injunction against Alpha Telcom, Inc. permanently
11 restraining that defendant from committing securities fraud in violation of the Securities Act of 1933 and the
12 Securities Exchange Act of 1934, and ordering that defendant to pay disgorgement. The Securities Administrator
13 therefore finds that ordering affirmative relief is unnecessary, and that the imposition of fines upon Alpha Telcom, Inc.
14 and American Telecommunications Company, Inc. would deplete assets that are to be returned to investors by the
15 Receiver.

16 **FINAL ORDER**

17 Based upon the foregoing, NOW, THEREFORE, IT IS HEREBY ORDERED that Alpha Telcom, Inc. and
18 American Telecommunications Company, Inc., and their agents and employees, shall each cease and desist from
19 violating RCW 21.20.010, the anti-fraud section of the Securities Act.

20 It is further ORDERED that Alpha Telcom, Inc. and American Telecommunications Company, Inc., and their
21 agents and employees, shall each cease and desist from violating RCW 21.20.140 by offering and/or selling
22 unregistered securities.

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1 It is further ORDERED that Alpha Telcom, Inc. and American Telecommunications Company, Inc., and their
2 agents and employees, shall each cease and desist from violating RCW 21.20.040 by acting as a securities broker-
3 dealer or securities salesperson without being so registered.

4 This Order is entered pursuant to the provisions of RCW 21.20.390, and is subject to the provisions of
5 Chapter 34.05 RCW.

6 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

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8 DATED this 13th day of March, 2002.
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14 DEBORAH R. BORTNER
Securities Administrator

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16 Approved by:

Presented by:

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19 _____
Michael E. Stevenson
Chief of Enforcement

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21
22 _____
Chad Standifer
Staff Attorney

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